

JAN 21 2022

A BILL FOR AN ACT

RELATING TO PRIVACY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that House Concurrent
2 Resolution No. 225, Senate Draft 1, Regular Session of 2019,
3 established the twenty-first century privacy law task force,
4 whose membership consisted of individuals in government and the
5 private sector having an interest or expertise in privacy law in
6 the digital era. The concurrent resolution found that public
7 use of the internet and related technologies has significantly
8 expanded in recent years and that a lack of meaningful
9 government regulation has resulted in personal privacy being
10 compromised. Accordingly, the legislature requested that the
11 task force examine and make recommendations regarding existing
12 privacy laws and rules to protect the privacy interests of the
13 people of Hawaii.

14 The legislature finds that, following significant inquiry
15 and discussion, the task force recommended that the outdated
16 definition of "personal information" in chapter 487N, Hawaii
17 Revised Statutes, which requires the public to be notified of



1 data breaches, should be updated and expanded. Individuals
2 face too many identifying data elements that, when exposed to
3 the public in a data breach, place an individual at risk of
4 identity theft or may compromise the individual's personal
5 safety. In its current form, chapter 487N is not comprehensive
6 enough to cover the additional identifiers.

7 Accordingly, the purpose of this Act is to update the
8 definition of "personal information" in chapter 487N, Hawaii
9 Revised Statutes, to include various personal identifiers and
10 data elements that are found in more comprehensive laws.

11 SECTION 2. Section 487N-1, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By adding two new definitions to be appropriately
14 inserted and to read:

15 "Identifier" means a common piece of information related
16 specifically to an individual, that is commonly used to identify
17 that individual across technology platforms, including a first
18 name or initial, and last name; a user name for an online
19 account; a phone number; or an email address.

20 "Specified data element" means any of the following:



- 1 (1) An individual's social security number, either in its
2 entirety or the last four or more digits;
- 3 (2) Driver's license number, federal or state
4 identification card number, or passport number;
- 5 (3) A federal individual taxpayer identification number;
- 6 (4) An individual's financial account number or credit or
7 debit card number;
- 8 (5) A security code, access code, personal identification
9 number, or password that would allow access to an
10 individual's account;
- 11 (6) Health insurance policy number, subscriber
12 identification number, or any other unique number used
13 by a health insurer to identify a person;
- 14 (7) Medical history, medical treatment by a health care
15 professional, diagnosis of mental or physical
16 condition by a health care professional, or
17 deoxyribonucleic acid profile;
- 18 (8) Unique biometric data generated from a measurement or
19 analysis of human body characteristics used for
20 authentication purposes, such as a fingerprint, voice



1 print, retina or iris image, or other unique physical
2 or digital representation of biometric data; and

3 (9) A private key that is unique to an individual and that
4 is used to authenticate or sign an electronic record."

5 2. By amending the definition of "personal information" to
6 read:

7 "~~Personal information" means an [individual's first name~~
8 ~~or first initial and last name in combination with any one or~~
9 ~~more of the following data elements, when either the name or the~~
10 ~~data elements are not encrypted:~~

11 ~~(1) Social security number;~~

12 ~~(2) Driver's license number or Hawaii identification card~~
13 ~~number; or~~

14 ~~(3) Account number, credit or debit card number, access~~
15 ~~code, or password that would permit access to an~~
16 ~~individual's financial account.]~~

17 identifier in combination with one or more specified data
18 elements. "Personal information" [does] shall not include

19 publicly available information that is lawfully made available
20 to the general public from federal, state, or local government
21 records."



1 SECTION 3. Section 487N-2, Hawaii Revised Statutes, is
2 amended by amending subsection (g) to read as follows:

3 "(g) The following businesses shall be deemed to be in
4 compliance with this section:

5 (1) A financial institution that is subject to the federal
6 Interagency Guidance on Response Programs for
7 Unauthorized Access to Customer Information and
8 Customer Notice published in the Federal Register on
9 March 29, 2005, by the Board of Governors of the
10 Federal Reserve System, the Federal Deposit Insurance
11 Corporation, the Office of the Comptroller of the
12 Currency, and the Office of Thrift Supervision, or
13 subject to 12 C.F.R. Part 748, and any revisions,
14 additions, or substitutions relating to the
15 interagency guidance; and

16 (2) Any health plan or healthcare provider and its
17 business associates that ~~[is]~~ are subject to and in
18 compliance with the standards for privacy or
19 individually identifiable health information and the
20 security standards for the protection of electronic



1 health information of the Health Insurance Portability
2 and Accountability Act of 1996."

3 SECTION 4. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

6 SECTION 5. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 6. This Act shall take effect upon its approval.

9

INTRODUCED BY:



S.B. NO. 2292

Report Title:

Privacy; Attorney General; Personal Information; Notice

Description:

Amends the definition of "personal information" for the purpose of applying modern security breach of personal information law.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

